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In re Application of
Adonis Stassinopoulos and David Cook

OFFICE OF PETITIONS

Application No. 10/043,855
Filed: December 21, 2001
Attorney Docket No.: Cerus-5200

DECISION GRANTING PETITION

Title: METHODS FOR INACTIVATION OF
PATHOGENS IN BIOLOGICAL
MATERIALS

This is a decision on the petition filed June 3, 2002, under 37 C.F.R. §1.181(a), requesting that application number 10/043,855 be accorded a filing date of December 21, 2001.

The application was deposited on January 14, 2002. On March 26, 2002, the Office of Initial Patent Examination (OIPE) mailed a Notice to File Missing Parts (Notice), stating that the application had been accorded a filing date of January 14, 2002¹.

In response, on June 3, 2002, applicants filed the present petition. Petitioners have included a statement that asserts that on December 21, 2001, they attempted to deposit the application with the United States Postal Service (USPS) as "Express Mail", but were mistakenly told that the application could not be mailed via Express Mail, due to the temporary closure of the Brentwood Mail Facility. As such, the application was mailed as "First Class Priority"^{2, 3} and the filing date was the date of actual receipt in the Office, January 14, 2002.

¹ The Notice also indicated that the oath or declaration was unsigned. The Notice set a period of response of two (2) months.

² According to Rule 37 C.F.R. §1.10, only express mail will be considered filed on the date of deposit with the USPS.

On September 6, 2002, petitioner transmitted via facsimile transmission a statement from petitioner's Post Office, confirming that on December 21, 2001, petitioner was indeed incorrectly informed by a USPS employee that the USPS was not accepting Express Mail to zipcode 20231.

The evidence is convincing that on December 21, 2001, petitioner attempted to deliver the application papers via "Express Mail Post Office to Addressee" by the USPS, but the USPS prevented her from doing so. Therefore, the application was entitled to a filing date of December 21, 2001.

Accordingly, the petition is **GRANTED**.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of December 21, 2001, as well as the mailing of a corrected filing receipt.

Any inquiries related to this decision should be directed to Petitions Attorney Paul Shanowski at (703) 305-0011.



Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

³ See OG Notice "Notifications Related to Events of September 11, 2001": Where the USPS refuses to accept the deposit of mail for delivery by express mail.

"In some cases, due to the recent emergency, certain post offices are refusing to accept the deposit of mail for delivery by Express Mail service. The USPTO is also designating this interruption in the Express Mail service of the USPS as a postal service interruption within the meaning of 35 U.S.C. 21(a) and 37 CFR 1.6(e). In addition, if a party attempts to deposit correspondence for delivery to the USPTO with the USPS by Express Mail under 37 CFR 1.10 ("Express Mail Post Office to Addressee") and the USPS refuses to accept such correspondence, the party is advised to take the following action: mail the correspondence to the USPTO by registered or first class mail with a statement by the person who originally attempted to deposit the correspondence with the USPS by Express Mail. The statement must indicate the date on which the person attempted to deposit the correspondence with the USPS and that the USPS refused to accept the correspondence. The statement must be signed in accordance with 37 CFR 10.18. The correspondence should be mailed as set out in 37 CFR 1.1(a) and include the special box designation: BOX FILING DATE."